

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 ANTHONY BAILEY,

Case No. 2:19-cv-00057-GMN-EJY

4 Plaintiff,

5 v.

ORDER

6 NDOC et al.,

7 Defendants.

8 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983
9 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No.
10 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay
11 the full filing fee in this matter.

12 The Court entered a screening order on November 25, 2019. (ECF No. 4). The screening
13 order imposed a 90-day stay and the Court entered a subsequent order in which the parties were
14 assigned to mediation by a court-appointed mediator. (ECF Nos. 4, 7). The Office of the Attorney
15 General has filed a status report indicating that settlement has not been reached and informing the
16 Court of its intent to proceed with this action. (ECF No. 9).

17 For the foregoing reasons, **IT IS HEREBY ORDERED** that:

18 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**.
19 Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this
20 action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

21 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of
22 prepayment of any additional fees or costs or the giving of security therefor. This Order granting
23 leave to proceed *in forma pauperis* shall not extend to the issuance and/or service of subpoenas at
24 government expense.

25 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall
26 pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding
27 month's deposits to Plaintiff's account (**Anthony Bailey, #36192**), in the months that the account
28 exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The Clerk of the

1 Court shall **SEND** a copy of this Order to the Finance Division of the Clerk's Office. The Clerk
2 of the Court shall also **SEND** a copy of this Order to the attention of the Chief of Inmate Services
3 for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

4 4. The Clerk of the Court shall electronically **SERVE** a copy of this Order and a copy
5 of Plaintiff's complaint (ECF No. 5) on the Office of the Attorney General of the State of Nevada
6 by adding the Attorney General of the State of Nevada to the docket sheet. This does not indicate
7 acceptance of service.

8 5. Service must be perfected within ninety (90) days from the date of this Order
9 pursuant to Fed. R. Civ. P. 4(m).

10 6. Subject to the findings of the screening order (ECF No. 4), within twenty-one (21)
11 days of the date of entry of this Order, the Attorney General's Office shall file a notice advising
12 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the
13 names of the defendants for whom it does not accept service, and (c) the names of the defendants
14 for whom it is filing the last-known-address information under seal. As to any of the named
15 defendants for whom the Attorney General's Office cannot accept service, the Attorney General's
16 Office shall file, under seal, but shall not serve the inmate Plaintiff the last known address(es) of
17 those defendant(s) for whom it has such information. If the last known address of the defendant(s)
18 is a post office box, the Attorney General's Office shall attempt to obtain and provide the last
19 known physical address(es).

20 7. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file
21 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying
22 a full name and address for the defendant(s). For the defendant(s) as to which the Attorney
23 General's Office has not provided last known address information, Plaintiff shall provide the full
24 name and address for the defendant(s).

25 8. If the Attorney General accepts service of process for any named defendant(s), such
26 defendant(s) shall file and serve an answer or other response to the complaint (ECF No. 5) within
27 sixty (60) days from the date of this Order.
28

9. Plaintiff shall serve upon defendant(s) or, if an appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for consideration by the Court. Plaintiff shall include with the original document submitted for filing a certificate stating the date that a true and correct copy of the document was mailed or electronically filed to the defendants or counsel for the defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney named in the notice of appearance, at the physical or electronic address stated therein. The Court may disregard any document received by a district judge or magistrate judge which has not been filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk which fails to include a certificate showing proper service.

10. This case is no longer stayed.

DATED this 9th day of March 2020.

Elayna J. Youchak
ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE